



# Department of Justice

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## **FORMER MEDIMMUNE OFFICIAL PLEADS GUILTY** **TO INSIDER TRADING AND PERJURY**

**Washington, D.C.** - Thomas M. DiBiagio, United States Attorney for the District of Maryland, Kenneth L. Wainstein, United States Attorney for the District of Columbia, and Michael A. Mason, Assistant Director in Charge of the FBI's Washington Field Office, announced that Eric Tsao, 44, of Gaithersburg, Maryland, pled guilty today before the Honorable Henry H. Kennedy, Jr., in the United States District Court for the District of Columbia, to securities fraud and a related perjury charge in connection with an insider trading scheme. Tsao was the Vice-President of Process and Manufacturing Sciences at MedImmune, a publicly-traded biotechnology company located in Gaithersburg, Maryland. MedImmune is in the business of developing, manufacturing and selling biologics and pharmaceuticals, including the flu mist vaccine.

U.S. Attorney DiBiagio said, "the insider trading scheme executed by Tsao is an egregious breach of the law and of the trust placed in him. The marketplace, the investing public and the government demand better."

United States Attorney Wainstein commented, "this prosecution sends a strong message to Eric Tsao and others like him who are subpoenaed to appear before the SEC for testimony. No matter who you are, how smart you think you are, or how many people you can persuade to lie for you, if you lie to the SEC you will be brought to Justice."

According to charging documents filed separately in Maryland and Washington, D.C., in December 1998, Tsao opened a Schwab investment account in the name of his father, using shares of MedImmune stock that Tsao had obtained through his employment with MedImmune.

In September 1999, Tsao learned through his employment at MedImmune of merger negotiations between MedImmune and U.S. Bioscience, Inc., another biotech company. Shortly afterwards, Tsao purchased approximately 6,000 shares of U.S. Bioscience common stock at \$11.50 per share. On or about September 22, 1999, MedImmune publicly announced that it had agreed to acquire U.S. Bioscience, Inc. in a stock deal that valued U.S. Bioscience, Inc. at \$16.50 per share. Tsao then sold the 6000 shares on September 30 for a gain of about \$18,000.

On or about November 22, 2000, Tsao learned through his employment at MedImmune of confidential negotiations between MedImmune and Imclone concerning their pursuit of a joint manufacturing and marketing agreement for Imclone's then leading cancer drug in development. On November 29, 2000, within days of learning about MedImmune's confidential discussions with Imclone and the progress of those discussions, Tsao utilized the Schwab Account to place an order for the purchase of 2,000 shares of Imclone at \$40-1/4 per share. The order was filled by Schwab on December 14, 2000, at a time when the MedImmune-Imclone negotiations remained non-public. Ultimately, the contemplated business arrangement between MedImmune and Imclone fell through, and was never publicized. As a result, there were no illicit profits with respect to the 2,000 shares of Imclone purchased by Tsao.

In late 2001, Tsao learned non-public information that MedImmune was in confidential negotiations concerning a possible acquisition of Aviron. Tsao learned this information as a result of things he observed and heard through his employment at MedImmune, where he worked in close proximity to the MedImmune executives who were involved in the acquisition negotiations.

On or about November 23, 2001, Tsao purchased 10,000 shares of Aviron: 5000 shares at \$35.98 per share and 5000 shares at \$35.88 per share. The total price paid for the purchased Aviron stock was \$358,000.

On Monday, December 3, 2001, MedImmune publicly announced that it had agreed to acquire Aviron. In heavy trading, Aviron's share price rose 11% on the day of the announcement to close at \$41.42 per share, and continued to rise over the next two days, closing at \$45.15 and \$48.76 per share, respectively.

On December 26, 2001, Tsao sold his Aviron shares at prices ranging from \$50.21 to \$50.63, resulting in illicit profits of \$146,132. Tsao applied these proceeds to his personal benefit as he did with the U.S. Bioscience profits.

Although the Account was opened in the name of Tsao's father, Tsao's father did not contribute any funds or assets to the Account. Tsao made the trading decisions and executed all of the trades in the Schwab Account during the period 1998 through February 2002. During this period, Tsao used more than \$435,000 from the Account to pay various household and medical expenses for him and his wife.

In October 2002, the United States Securities and Exchange Commission ("SEC") was investigating, among other things, whether Tsao had violated the law in connection with the purchase and sale of the common stock of U.S. Bioscience in or about September and October 1999, and in connection with the purchase and sale of the common stock of Aviron in or about November and December 2001. On October 15, 2002, Tsao appeared at the offices of the SEC in the District of Columbia to testify under oath in the SEC's investigative proceedings, took an oath to testify truthfully, and, contrary to that oath, falsely testified that his wife, not he, placed the orders to

purchase and sell U.S. Bioscience and Aviron securities that were the focus of the SEC's insider trading investigation. With respect to the December 26, 2001 sale of Aviron securities, Tsao falsely testified that his wife came to his office, sat at his desk, and placed the trade from his office computer.

As part of his plea deal, Tsao was permitted to plead guilty to both insider trading and perjury in the District of Columbia. Tsao's plea of guilty to one count of insider trading in Maryland carries a maximum penalty of 10 years imprisonment and a \$1 million fine. Tsao's plea of guilty to one count of perjury in the District of Columbia carries a maximum penalty of 5 years imprisonment and a \$250,000 fine. Sentencing has been set for January 14, 2005 at 3:00 p.m.

United States Attorneys DiBiagio and Wainstein and Assistant Director Mason commended Special Agents Marcie DiFede and John Cotter, Forensic Computer Examiner Wesley Yoo, and Financial Analyst Lee Lowder of the Washington Field Office of the Federal Bureau of Investigation; and Marisa Perez and James Mollica, Special Agents from the Baltimore Field Office of the Federal Bureau of Investigation, whose tireless investigative efforts were critical to this successful prosecution. They also praised legal Assistant April Peeler of the Washington, D.C. United States Attorney's Office for the support she gave to the prosecution team. Lastly, they commended the performance of Assistant U.S. Attorney David I. Salem of the United States Attorney's Office in Baltimore and Assistant U.S. Attorney Jonathan R. Barr of the United States Attorney's Office in the District of Columbia.

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